

**U.S. District Court  
Northern District of Ohio (Cleveland)  
CIVIL DOCKET FOR CASE #: 1:06-cv-02981-AA  
Internal Use Only**

Lincoln Electric Company v. Miller Electric Mfg. Co. et al.  
Assigned to: Judge Ann Aldrich  
Cause: 28:2201 Declaratory Judgement

Date Filed: 12/13/2006  
Date Terminated: 08/07/2009  
Jury Demand: Both  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff**

**Lincoln Electric Company**

8 Pats.  
pgs. 4-6

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

THE LINCOLN ELECTRIC COMPANY

Plaintiff,

v.

MILLER ELECTRIC MFG. CO. and  
ILLINOIS TOOL WORKS, INC.,

Defendants.

1:06cv2981

Civil Action No.

DEMAND FOR JURY TRIAL

JUDGE ALDRICH

MAG. JUDGE HEMANN

**COMPLAINT FOR DECLARATORY JUDGMENT OF PATENT  
NON-INFRINGEMENT AND INVALIDITY**

Plaintiff The Lincoln Electric Company ("Lincoln Electric" or "Plaintiff") brings this action seeking a declaratory judgment of non-infringement and invalidity with respect to eight United States patents purportedly owned by Defendants<sup>1</sup> Miller Electric Mfg. Co. ("Miller") and Illinois Tool Works, Inc. ("ITW"). Plaintiff, for its Complaint against Defendants, alleges by and through its attorneys as follows:

**PARTIES**

1. Lincoln Electric is a corporation organized and existing under the laws of Ohio. Lincoln Electric is located in and has a principal place of business at 22801 St. Clair Ave., Cleveland, OH 44117. It designs, develops, manufactures, and sells welding products and accessories, including welding machines, plasma cutters and power sources, in the United States, including this judicial district.

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<sup>1</sup> "Defendants" refers to one or both of Miller and ITW.

2. On information and belief, defendant ITW is a corporation organized and existing under the laws of Delaware, with a principal place of business at 3600 West Lake Avenue, Glenview, IL 60026.

3. On information and belief, defendant Miller is a corporation organized and existing under the laws of Wisconsin with a principal place of business at 1635 W. Spencer St., Appleton, WI 54912, and is a wholly owned subsidiary of ITW.

### **JURISDICTION AND VENUE**

4. This is an action arising under the patent laws of the United States. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 2201 and 2202.

5. This Court has personal jurisdiction over the Defendants pursuant to the provisions of the Ohio Long Arm Statute, O.R.C. § 2307.382, and the laws of the United States. Defendants maintain an established distribution network for offering for sale, selling and shipping products into the Northern District of Ohio, including products that are purportedly covered by one or more of Defendants patents. Upon information and belief, Defendants derive substantial revenue from activities within this state and Judicial District, and have sold a substantial amount of products into this state and Judicial District, either directly or through third parties.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

### **FACTUAL ALLEGATIONS AND BACKGROUND**

7. Plaintiff is a world leader in the design, development and manufacture of welding machines, welding guns, welding power sources, welding consumables and plasma cutting systems, among other things. For years, Plaintiff has invested significant time, financial

resources, and effort in the research and development of technology that is used in all facets of design and manufacture of welding machines, consumables, systems and power sources. To protect its investment, Plaintiff or its sister companies have applied for and obtained extensive patent rights world-wide, including a large number of United States patents.

8. As a result of the technology developed by Plaintiff over the years, it is the leading supplier of welding products in the world, selling to all categories of consumers, including industrial, professional and amateur welders.

9. Defendants manufacture and sell an array of products including welders, wire feeders, welding guns and accessories, welding power sources, and plasma arc cutters under a variety of trade names.

10. In January of 2001, Defendants sent a letter expressly charging that one of Plaintiff's existing products, the Lincoln Ranger, infringed one of Defendants' patents. Over the course of the next several years, Plaintiff and Defendants have engaged in negotiations relating to various U.S. patents. These negotiations, which stretch back more than five years, have been ultimately unsuccessful. During these negotiations, Defendants have requested meetings with Plaintiff for the purpose of attempting to demonstrate that Plaintiff's products infringe Defendants' patents and seeking substantial sums of money. During this period, Defendants have made express charges in writing that a number of existing products manufactured and sold by Plaintiff infringes certain of the Defendants' patents. Defendants' express charges of infringement have been made in detailed claim charts comparing the claims of certain of Defendants' patents and Plaintiff's products and in letters or e-mails. Defendants also sent letters to Plaintiff demanding an accounting for purported damages based on Defendants' charges of patent infringement. Plaintiff has agreed to meet and discuss the alleged infringement

and have engaged in such negotiations to persuade Defendants that their allegations of infringement are and remain without merit. After numerous letters and meetings, the number of allegations of infringement by Defendants has expanded considerably. During these meetings, Defendants' representatives have communicated to Plaintiff that Defendants consider Defendants' patents to be valuable and important technology that Defendants intend to protect its technology and assert its patents against Plaintiff. Despite meeting several times in the past year, the parties have been unable to resolve their differences.

11. Defendants have now indicated through meetings and otherwise that the negotiations must be resolved imminently. To this end, the parties recently met to again discuss Defendants' allegations of infringement and the ultimate resolution for these allegations. During this meeting, Defendants again demanded that Plaintiff pay substantial sums of money to resolve Defendants' infringement allegations and limit Plaintiff's sales of the products in question. Plaintiff's representatives rejected these demands. As a result, Plaintiff reasonably believes that it is under an immediate and imminent threat of litigation and that Defendants will institute an infringement action against them if they continue to manufacture and sell any or all of the products claimed by Defendants to be infringing one or more of at least 8 remaining patents in contention (collectively "the ITW patents-in-suit") and do not capitulate to Defendants' demands.

12. The ITW patents-in-suit are identified below.

13. United States Patent No. 6,002,103 ("the '103 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding Power Source*, has an issue date of December 14, 1999, and names James M. Thommes as the alleged inventor. A true and correct copy of the '103 Patent is attached hereto as Exhibit A.

14. United States Patent No. 6,239,407 ("the '407 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding Power Source*, has an issue date of May 29, 2001, and names James M. Thommes as the alleged inventor. A true and correct copy of the '407 Patent is attached hereto as Exhibit B.

15. United States Patent No. 6,849,827 ("the '827 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding Power Source*, has an issue date of February 1, 2005, and names James M. Thommes as the alleged inventor. A true and correct copy of the '827 Patent is attached hereto as Exhibit C.

16. United States Patent No. 7,049,546 ("the '546 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding Power Source*, has an issue date of May 23, 2006, and names James M. Thommes as the alleged inventor. A true and correct copy of the '546 Patent is attached hereto as Exhibit D.

17. United States Patent No. 6,329,636 ("the '636 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding Plasma or Heating Power Source*, has an issue date of December 11, 2001, and names Steven J. Geissler as the alleged inventor. A true and correct copy of the '636 Patent is attached hereto as Exhibit E.

18. United States Patent No. 6,815,639 ("the '639 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding, Plasma or Heating Power Source*, has an issue date of November 9, 2004, and names Steven J. Geissler as the alleged inventor. A true and correct copy of the '639 Patent is attached hereto as Exhibit F.

19. United States Patent No. 6,987,242 ("the '242 Patent"), entitled *Method and Apparatus for Receiving a Universal Input Voltage in a Welding, Plasma or Heating Power*

Source, has an issue date of January 17, 2006, and names Steven J. Geissler as the alleged inventor. A true and correct copy of the '242 Patent is attached hereto as Exhibit G.

20. United States Patent No. 6,236,014 ("the '014 Patent"), entitled *Method and Apparatus for Providing Welding / Plasma Power*, has an issue date of May 22, 2001, and names James F. Ulrich as the alleged inventor. A true and correct copy of the '014 Patent is attached hereto as Exhibit H.

### COUNT I

#### (Declaratory Judgment re: the '103 Patent)

21. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-20 of this Complaint as though fully set forth herein.

22. This is a claim against Defendants for a declaratory judgment that the '103 Patent has not been and is not infringed by Plaintiff and that the '103 Patent is invalid.

23. Defendants have represented that they are the owners of the '103 Patent.

24. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continue to infringe the '103 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '103 Patent.

25. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '103 Patent.

26. The '103 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

27. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '103 Patent.

28. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '103 Patent, and declaring the '103 Patent invalid.

## **COUNT II**

### **(Declaratory Judgment re: the '407 Patent)**

29. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-28 of this Complaint as though fully set forth herein.

30. This is a claim against Defendants for a declaratory judgment that the '407 Patent has not been and is not infringed by Plaintiff and that the '407 Patent is invalid.

31. Defendants have represented that they are the owners of the '407 Patent.

32. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continues to infringe the '407 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '407 Patent.

33. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '407 Patent.



34. The '407 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

35. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '407 Patent.

36. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '407 Patent, and declaring the '407 Patent invalid.

### COUNT III

#### (Declaratory Judgment re: the '827 Patent)

37. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-36 of this Complaint as though fully set forth herein.

38. This is a claim against Defendants for a declaratory judgment that the '827 Patent has not been and is not infringed by Plaintiff and that the '827 Patent is invalid.

39. Defendants have represented that they are the owners of the '827 Patent.

40. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continues to infringe the '827 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '827 Patent.

41. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '827 Patent.

42. The '827 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

43. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '827 Patent.

44. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '827 Patent, and declaring the '827 Patent invalid.

#### **COUNT IV**

##### **(Declaratory Judgment re: the '546 Patent)**

45. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-44 of this Complaint as though fully set forth herein.

46. This is a claim against Defendants for a declaratory judgment that the '546 Patent has not been and is not infringed by Plaintiff and that the '546 Patent is invalid.

47. Defendants have represented that they are the owners of the '546 Patent.

48. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continue to infringe the '546 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will

be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '546 Patent.

49. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '546 Patent.

50. The '546 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

51. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '546 Patent.

52. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '546 Patent, and declaring the '546 Patent invalid.

#### COUNT V

##### (Declaratory Judgment re: the '636 Patent)

53. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-52 of this Complaint as though fully set forth herein.

54. This is a claim against Defendants for a declaratory judgment that the '636 Patent has not been and is not infringed by Plaintiff and that the '636 Patent is invalid.

55. Defendants have represented that they are the owners of the '636 Patent.

56. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continue to infringe the '636 Patent. Defendants' statements and actions have

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V.

**Defendant**

created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '636 Patent.

57. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '636 Patent.

58. The '636 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

59. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '636 Patent.

60. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '636 Patent, and declaring the '636 Patent invalid.

#### **COUNT VI**

##### **(Declaratory Judgment re: the '639 Patent)**

61. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-60 of this Complaint as though fully set forth herein.

62. This is a claim against Defendants for a declaratory judgment that the '639 Patent has not been and is not infringed by Plaintiff and that the '639 Patent is invalid.

63. Defendants have represented that they are the owners of the '639 Patent.

64. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continue to infringe the '639 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '639 Patent.

65. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '639 Patent.

66. The '639 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

67. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '639 Patent.

68. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '639 Patent, and declaring the '639 Patent invalid.

#### **COUNT VII**

##### **(Declaratory Judgment re: the '242 Patent)**

69. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-68 of this Complaint as though fully set forth herein.

70. This is a claim against Defendants for a declaratory judgment that the '242 Patent has not been and is not infringed by Plaintiff and that the '242 Patent is invalid.

71. Defendants have represented that they are the owners of the '242 Patent.

72. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continue to infringe the '242 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '242 Patent.

73. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '242 Patent.

74. The '242 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

75. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '242 Patent.

76. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '242 Patent. and declaring the '242 Patent invalid.

#### **COUNT VIII**

##### **(Declaratory Judgment re: the '014 Patent)**

77. Plaintiff incorporates by reference the allegations set forth in Paragraphs 1-76 of this Complaint as though fully set forth herein.

78. This is a claim against Defendants for a declaratory judgment that the '014 Patent has not been and is not infringed by Plaintiff and that the '014 Patent is invalid.

79. Defendants have represented that they are the owners of the '014 Patent.

80. Defendants have asserted that certain products manufactured by Plaintiff have infringed and continue to infringe the '014 Patent. Defendants' statements and actions have created on the part of Plaintiff a reasonable apprehension and belief that Plaintiff imminently will be faced with an infringement suit if it continues to manufacture and/or sell the products claimed by Defendants to infringe the '014 Patent.

81. No product made, used, sold, or offered for sale in the United States by or for Plaintiff infringes any claim of the '014 Patent.

82. The '014 Patent is invalid for failure to meet the conditions for patentability specified in 35 U.S.C. § 101 *et seq.*

83. Accordingly, a real and justiciable controversy has arisen and exists between Plaintiff and Defendants. Plaintiff desires a judicial determination and declaration of the respective rights and duties of the parties herein in accordance with Plaintiff's foregoing contentions. Such a determination and declaration are necessary and appropriate at this time so that the parties may ascertain their respective rights and duties regarding the validity and infringement of the '014 Patent.

84. Plaintiff requests a judgment declaring that Plaintiff has not infringed and is not infringing the '014 Patent, and declaring the '014 Patent invalid.



**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff requests that this Court grant the following relief:

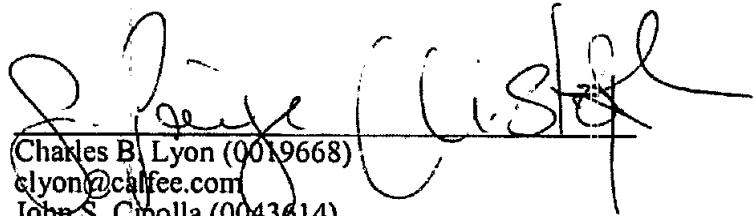
- (a) Declare the '103, '407, '827, '546, '636, '639, '242, and '014 Patents to be invalid;
- (b) Declare that Plaintiff has not infringed and does not infringe the '103, '407, '827, '546, '636, '639, '242, and '014 Patents;
- (c) Declare this case to be exceptional (including under 35 U.S.C. §285) and award Plaintiff its reasonable attorney fees and costs; and
- (d) Grant Plaintiff such other relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Lincoln Electric requests a trial by jury on all issues so triable.

Dated: December 13, 2006

Respectfully submitted,



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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

LINCOLN ELECTRIC COMPANY,

Plaintiff,

v.

MILLER ELECTRIC MFG. CO., et al.,

Defendants.

) Case No. 1:06-CV-02981  
)  
)  
)  
) JUDGE ANN ALDRICH  
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ORDER

On December 13, 2006, Lincoln Electric Company ("Lincoln") filed a request for *inter partes* reexamination of seven of Illinois Tool Works Inc.'s ("ITW") patents with the United States Patent and Trademark Office (the "PTO"). On September 7, 2007, this court granted ITW's motion for a stay. This court directs the parties to immediately inform the court when the PTO reexamination is completed. Until that time, this case shall remain STAYED and administratively CLOSED, subject to reopening upon written motion by any of the parties.

IT IS SO ORDERED.

/s/Ann Aldrich  
ANN ALDRICH  
UNITED STATES DISTRICT JUDGE

**Dated: August 7, 2009**

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**Defendant**

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**Counter-Claimant**

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**Counter-Claimant**

**Illinois Tool Works, Inc.**

V.

**Counter-Defendant**

**Lincoln Electric Company**

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*TERMINATED: 06/20/2008*

*ATTORNEY TO BE NOTICED*

represented by **Brandon M. White**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Charles B. Lyon**

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**Chet J. Bonner**  
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**S. Paige Christopher**  
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**John J. Girgenti**  
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Date Filed	#	Docket Text
12/13/2006	<u>1</u>	Complaint with jury demand against Miller Electric Mfg. Co. & Illinois Tool Works, Inc. ( Filing fee 350 receipt number 14660005344.) Summons issued to counsel. Filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Civil Cover Sheet)(C, BA) (Entered: 12/13/2006)
12/13/2006		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Hemann. (C, BA) (Entered: 12/13/2006)
12/13/2006	<u>2</u>	Corporate Disclosure Statement filed by Lincoln Electric Company. (C, BA) (Entered: 12/13/2006)
12/19/2006	<u>3</u>	Return of Service Executed upon Miller Electric Mfg. Co. by corporate service on 12/14/06 filed by Lincoln Electric Company Related document(s) <u>1</u> . (Christopher, S.) (Entered: 12/19/2006)
12/19/2006	<u>4</u>	Return of Service Executed upon Illinois Tool Works, Inc. by corporate service on 12/14/06 filed by Lincoln Electric Company Related document(s) <u>1</u> . (Christopher, S.) (Entered: 12/19/2006)
01/03/2007	<u>5</u>	Unopposed Motion for extension of time until March 5, 2007 to answer filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Martinsek, Amanda) (Entered: 01/03/2007)

01/04/2007	<u>6</u>	Marginal Order granting <u>5</u> defendants' motion for extension of time to answer Miller Electric Mfg. Co. and Illinois Tool Works, Inc. answer due 3/5/2007; no further extensions. Signed by Judge Ann Aldrich on 1-4-07.(K, V) (Entered: 01/04/2007)
01/04/2007	<u>7</u>	Case Management Conference Scheduling Order with case management conference to be held on 3/16/2007 at 01:30 PM at Chambers 17B before Hon. Ann Aldrich.. Signed by Judge Ann Aldrich on 1-4-07. (Attachments: # <u>1</u> Position Statement)(K, V) (Entered: 01/04/2007)
01/08/2007	<u>8</u>	Notice of Appearance filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Duhamel, Marcel) (Entered: 01/08/2007)
01/10/2007	<u>9</u>	Motion for attorney Terrance Wikberg to Appear Pro Hac Vice Filing fee 100, receipt number 2283444. filed by Lincoln Electric Company. (Attachments: # <u>1</u> Affidavit)(Christopher, S.) (Entered: 01/10/2007)
01/10/2007	<u>10</u>	Motion for attorney Brandon White to Appear Pro Hac Vice Filing fee 100, receipt number 2283480. filed by Lincoln Electric Company. (Attachments: # <u>1</u> Affidavit)(Christopher, S.) (Entered: 01/10/2007)
01/10/2007	<u>11</u>	Motion for attorney Robert Masters to Appear Pro Hac Vice Filing fee 100, receipt number 2283532. filed by Lincoln Electric Company. (Attachments: # <u>1</u> Affidavit)(Christopher, S.) (Entered: 01/10/2007)
01/10/2007	<u>12</u>	Motion for attorney John Girgenti to Appear Pro Hac Vice Filing fee 100, receipt number 2283554. filed by Lincoln Electric Company. (Attachments: # <u>1</u> Affidavit)(Christopher, S.) (Entered: 01/10/2007)
01/10/2007	<u>13</u>	Motion for attorney Paul Wilson to Appear Pro Hac Vice Filing fee 100, receipt number 2283576. filed by Lincoln Electric Company. (Attachments: # <u>1</u> Affidavit)(Christopher, S.) (Entered: 01/10/2007)
01/10/2007	<u>14</u>	Motion for attorney Scott Flicker to Appear Pro Hac Vice Filing fee 100, receipt number 2283592. filed by Lincoln Electric Company. Filing fee paid; receipt number 2283592. (Attachments: # <u>1</u> Affidavit) (Christopher, S.) (Entered: 01/10/2007)
01/16/2007		Order [non-document]granting motion for appearance pro hac vice by attorney Terrance J. Wikberg, Brandon M. White, Robert M. Masters, John J. Ghirgenti, Paul Wilson, Scott M. Flicker (Related Doc # <u>9</u> )(Related Doc # <u>10</u> ) (Related Docs # <u>11</u> , # <u>12</u> , # <u>13</u> ), # <u>14</u> ) on behalf of Lincoln Electric. Judge Ann Aldrich (K,V) (Entered: 01/16/2007)
03/02/2007	<u>15</u>	Unopposed Motion to seal <i>Motion to Dismiss and Declaration of John Pilarski</i> filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Attachments: # <u>1</u> Proposed Order)(Duhamel, Marcel) (Entered: 03/02/2007)
03/05/2007	<u>16</u>	Order granting the unopposed motion to seal the motion to dismiss and declaration of John Pilarski (Related Doc # <u>15</u> ). Signed by Judge Ann Aldrich on 3-5-07.(K,V) (Entered: 03/05/2007)
03/05/2007	<u>17</u>	Answer to Complaint (Related Doc # <u>1</u> ) filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Duhamel, Marcel) (Entered: 03/05/2007)
03/06/2007	<u>18</u>	Motion to dismiss for lack of subject matter jurisdiction filed by Miller Electric Mfg. Co. and Illinois Tool Works, Inc. Related document(s) <u>16</u> . (Document filed under seal pursuant to Court order)(B,B) (Entered: 03/07/2007)
03/09/2007	<u>19</u>	Notice of Substitution of Counsel removing attorney <i>S. Paige Christopher</i> and adding attorney Jennifer Buckey Wick filed by on behalf of Lincoln Electric Company. (Wick, Jennifer) (Entered: 03/09/2007)
03/09/2007	<u>20</u>	Joint Position Statement re: Case Management Conference Agenda filed by Lincoln Electric Company. (Wick, Jennifer) (Entered: 03/09/2007)
03/09/2007		(Court only) Utility Event terminating attorney S. Paige Christopher, re <u>19</u> . (R,Sh) (Entered: 03/14/2007)
03/14/2007	<u>21</u>	Motion to attend <i>case management conference scheduled for March 16, 2007</i> by telephone filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Dunn, Carrie) (Entered: 03/14/2007)
03/14/2007		Order [non-document]granting defendants' motion to excuse representative from personal appearance at Case Management Conference on 3-16-07. (Related Doc # <u>21</u> ). Signed by Judge Ann Aldrich on 3-14-07.(K,V) (Entered: 03/14/2007)
03/15/2007	<u>22</u>	Motion for attorney William E. Devitt to Appear Pro Hac Vice Filing fee 100, receipt number 2376750. filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Attachments: # <u>1</u> Affidavit of William E. Devitt)(Duhamel, Marcel) (Entered: 03/15/2007)

03/19/2007	<u>23</u>	Supplement to <i>Motion for Pro Hac Vice of William E. Devitt</i> filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. Related document(s) <u>22</u> . (Duhamel, Marcel) (Entered: 03/19/2007)
03/20/2007		Order [non-document]granting Motion for appearance pro hac vice by attorney William E. Devitt for Miller Electric Mfg. Co. and Illinois Tool Works, Inc. (Related Doc # <u>22</u> ). Signed by(K,V) (Entered: 03/20/2007)
03/29/2007	<u>24</u>	Unopposed Motion to seal <i>Opposition to Motion to Dismiss and Supporting Declarations</i> filed by Lincoln Electric Company. (Attachments: # <u>1</u> Proposed Order)(Cipolla, John) (Entered: 03/29/2007)
03/30/2007	<u>25</u>	Notice of <i>Supplemental Authority Relative to Motion to Dismiss</i> filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Attachments: # <u>1</u> Exhibit Sandisk v. Stmicroelectronics)Related document(s) <u>18</u> .(Duhamel, Marcel) (Entered: 03/30/2007)
04/03/2007	<u>26</u>	Order granting Motion to file opposition to motion to dismiss under seal (Related Doc # <u>24</u> ). Signed by Judge Ann Aldrich on 4/3/07.(C,B) (Entered: 04/04/2007)
04/05/2007	<u>27</u>	Opposition, with declarations and exhibits in support, to <u>18</u> Motion to dismiss for lack of subject matter jurisdiction (FILED UNDER SEAL) filed by Lincoln Electric Company. (C,B) (Entered: 04/05/2007)
04/12/2007	<u>28</u>	Joint Motion for Extension of Length of Memorandum Relating to Defendants' Motion to Dismiss and for Extension of Time for Defendants to File their Reply in Support of their Motion to Dismiss filed by Lincoln Electric Company. (Lyon, Charles) (Entered: 04/12/2007)
04/25/2007	<u>29</u>	Unopposed Motion to seal <i>Reply Memorandum and Any Supporting Exhibits</i> filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Attachments: # <u>1</u> Proposed Order)(Dunn, Carrie) (Entered: 04/25/2007)
04/25/2007		Order [non-document]granting Motion to extend page limitation(Related Doc # <u>28</u> ). Judge Ann Aldrich(K,V) (Entered: 04/25/2007)
04/25/2007		Order [non-document]granting unopposed motion authorizing defendants Illinois Tool & Miller Electric to file reply memorandum and any supporting exhibits under seal (Related Doc # <u>29</u> ). Judge Ann Aldrich(K,V) (Entered: 04/25/2007)
04/26/2007	<u>30</u>	Reply Memorandum to <u>27</u> In Support of <u>18</u> Motion to dismiss for lack of jurisdiction with Exhibits attached(FILED UNDER SEAL) filed by all defendants. (C,B) Modified text on 8/27/2007 (E, P). (Entered: 04/27/2007)
05/01/2007		Order [non-document]granting unopposed motion to file reply memorandum and any supporting exhibits under seal. (Related Doc # <u>18</u> ). Signed by(K,V) (Entered: 05/01/2007)
06/21/2007	<u>31</u>	*SEALED* Memorandum and Order denying motion to dismiss filed by ITW. FILED UNDER SEAL. Signed by Judge Ann Aldrich on 6-21-07.(K,V) (Entered: 06/21/2007)
06/27/2007	<u>32</u>	Notice of Service of Subpoena-Thermadyne filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit)(Cipolla, John) (Entered: 06/27/2007)
06/27/2007	<u>33</u>	Notice of Service of Subpoena-Hypertherm filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit)(Cipolla, John) (Entered: 06/27/2007)
06/27/2007	<u>34</u>	Notice of Service of Subpoena-Thompson Coburn filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit)(Cipolla, John) (Entered: 06/27/2007)
07/03/2007	<u>35</u>	<b>Motion</b> to stay filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Duhamel, Marcel) (Entered: 07/03/2007)
07/03/2007	<u>36</u>	Memorandum In Support of <u>35</u> <b>Motion</b> to stay filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H)(Duhamel, Marcel) (Entered: 07/03/2007)
07/09/2007	<u>37</u>	Notice of Service upon Micro Linear Corporation filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I)(Bonner, Chet) (Entered: 07/09/2007)
07/09/2007	<u>38</u>	Notice of Service upon Linear Technology Corporation filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I)(Bonner, Chet) (Entered: 07/09/2007)



07/09/2007	<u>39</u>	Notice of Service upon Dr. Ray Ridley, Ridley Engineering filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I)(Bonner, Chet) (Entered: 07/09/2007)
07/09/2007	<u>40</u>	Notice of Service upon Texas Instruments, Inc. filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G# <u>8</u> Exhibit H# <u>9</u> Exhibit I)(Bonner, Chet) (Entered: 07/09/2007)
07/20/2007	<u>41</u>	Unopposed <b>Motion</b> for leave to File an Amended Complaint filed by Lincoln Electric Company. (Attachments: # <u>1</u> Brief in Support of Unopposed Motion for Leave to File an Amended Complaint# <u>2</u> Exhibit A - Amended Complaint for Declaratory Judgment of Patent Non-Infringement, Invalidity, and Unenforceability# <u>3</u> Exhibit A to Amended Complaint - US Patent No. 6,002,103# <u>4</u> Exhibit B to Amended Complaint - US Patent No. 6,239,407# <u>5</u> Exhibit C to Amended Complaint - US Patent No. 6,849,827 B2# <u>6</u> Exhibit D to Amended Complaint - US Patent No. 7,049,546 B2# <u>7</u> Exhibit E to Amended Complaint - US Patent No. 6,329,636 B1# <u>8</u> Exhibit F to Amended Complaint - US Patent No. 6,815,639 B2# <u>9</u> Exhibit G to Amended Complaint - US Patent No. 6,987,242 B2# <u>10</u> Exhibit H to Amended Complaint - US Patent No. 6,236,014 B1# <u>11</u> Exhibit I to Amended Complaint - Presentation of Publications and the Like (Japanese Patent Office))(Cipolla, John) (Entered: 07/20/2007)
07/20/2007	<u>42</u>	<b>Opposition</b> to <u>35</u> Motion to stay filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A - Declaration of John H. Pilarski# <u>2</u> Exhibit B - Thermal Dynamics litigation at Exhibit 5# <u>3</u> Exhibit C - Complaint in ITW v. Thermal Dynamics, Inc. case# <u>4</u> Exhibit D - Plaintiffs' Opposition to Thermal Dynamics' Motion for an Extension# <u>5</u> Exhibit E - Harmonic Current Emissions# <u>6</u> Exhibit F - ITW's and Miller Electric Mfg.'s Memorandum in Support of Their Rule 56 Motion for Partial Summary Judgment# <u>7</u> Exhibit G - Thermal Dynamics' Rule 7.4 Expedited Non-Dispositive Motion# <u>8</u> Exhibit H - Order# <u>9</u> Exhibit I - Petition for Extension of Time Pursuant to 37 CFR Section 1.956# <u>10</u> Exhibit J - Order# <u>11</u> Exhibit K - ITW's Opposition to Thermal Dynamics' Rule 7.4 Expedited Non-Dispositive Motion to Amend Scheduling Order# <u>12</u> Exhibit L - Plaintiffs' Rule 7.4 Expedited Non-Dispositive Motion to Amend the Complaint# <u>13</u> Exhibit M - Joint Rule 26(f) Report# <u>14</u> Exhibit N - Joint Claim Construction and Pre-Hearing Statement# <u>15</u> Exhibit O - Plaintiffs' Opposition to Defendant's Motion to Dismiss# <u>16</u> Exhibit P - Revised Scheduling Order)(Cipolla, John) (Entered: 07/20/2007)
07/23/2007		<b>Order</b> [non-document] granting Motion for leave to file an amended complaint(Related Doc # <u>41</u> ). Judge Ann Aldrich(K,V) (Entered: 07/23/2007)
07/23/2007	<u>43</u>	<b>Amended complaint</b> (unsigned, parties to file signed amended complaint) against Miller Electric Mfg. Co., Illinois Tool Works, Inc. Filed by Lincoln Electric Company. Exhibits A-I are located in document #41 (Motion for leave to file amended complaint) (K,V) Modified on 7/24/2007 (Kirkpatrick, Victoria). (Entered: 07/23/2007)
07/23/2007	<u>44</u>	<b>Amended complaint</b> for Declaratory Judgment of Patent Non-Infringement, Invalidity, and Unenforceability against all defendants. Filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A, US Patent No. 6,002,103# <u>2</u> Exhibit B, US Patent No. 6,239,407# <u>3</u> Exhibit C, US Patent No. 6,849,827# <u>4</u> Exhibit D, US Patent No. 7,049,546# <u>5</u> Exhibit E, US Patent No. 6,329,636# <u>6</u> Exhibit F, US Patent No. 6,815,639# <u>7</u> Exhibit G, US Patent No. 6,987,242# <u>8</u> Exhibit H, US Patent No. 6,236,014# <u>9</u> Exhibit I, Presentation of Publications and the Like (Japanese Patent Office))(Cipolla, John) (Entered: 07/23/2007)
08/02/2007	<u>45</u>	Unopposed <b>Motion</b> for extension of Time to Submit Reply Brief in Support of Defendants' Motion to Stay until August 10, 2007 filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Dunn, Carrie) (Entered: 08/02/2007)
08/03/2007		<b>Order</b> [non-document]granting <u>45</u> Miller and Illinois Tool's motion for extension of time until 8-10-07 to submit a reply brief. Judge Ann Aldrich(K,V) (Entered: 08/03/2007)
08/06/2007	<u>46</u>	<b>Answer</b> to Amended Complaint (Related Doc # <u>44</u> ), <b>Counterclaim</b> against Lincoln Electric Company filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Dunn, Carrie) (Entered: 08/06/2007)
08/10/2007	<u>47</u>	<b>Reply</b> in support of <u>35</u> Motion to stay filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. (Attachments: # <u>1</u> Exhibit A: Article# <u>2</u> Exhibit B: Congressional Record# <u>3</u> Exhibit C: Article# <u>4</u> Exhibit D: Article# <u>5</u> Exhibit E: Article# <u>6</u> Exhibit F: Article# <u>7</u> Exhibit G: Reexamination Filing Data) (Dunn, Carrie) (Entered: 08/10/2007)
08/22/2007	<u>48</u>	<b>Motion</b> for oral argument filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A, 7/13/07 e-mail# <u>2</u> Exhibit B, 7/30/07 letter# <u>3</u> Exhibit C, 7/3/07 e-mail# <u>4</u> Exhibit D, 7/18/07 e-mail# <u>5</u> Exhibit E, 7/19/07 letter# <u>6</u> Exhibit F, Thermal Dynamics Corporation's Answer to Plaintiff's Third Amended Complaint# <u>7</u> Exhibit G, Thermadyne Holding Corporation's Response to Plaintiff's Subpoena# <u>8</u> Exhibit H, Thompson Coburn LLP's Response to Plaintiff's Subpoena# <u>9</u> Exhibit I, Protective Order

		entered in Thermal Dynamics litigation)(Cipolla, John) (Entered: 08/22/2007)
08/27/2007	<u>49</u>	<b>Motion</b> to strike <i>Lincoln's motion for oral argument</i> filed by Miller Electric Mfg. Co., Illinois Tool Works, Inc.. Related document(s) <u>48</u> . (Duhamel, Marcel) (Entered: 08/27/2007)
08/29/2007	<u>50</u>	<b>Reply to Defendants' Counterclaims to Amended Complaint</b> filed by Lincoln Electric Company. Related document(s) <u>46</u> . (Cipolla, John) (Entered: 08/29/2007)
08/30/2007	<u>51</u>	<b>Opposition to 49 Motion</b> to strike <i>Lincoln's motion for oral argument</i> filed by Lincoln Electric Company. (Cipolla, John) (Entered: 08/30/2007)
09/07/2007	<u>52</u>	<b>Memorandum and Order</b> (Related Doc # <u>35</u> )(Related Doc # <u>48</u> )(Related Doc # <u>49</u> )that the court grants ITW's motion for a stay. Lincoln's motion for oral argument and ITW's motion to strike are accordingly denied as moot. Signed by Judge Ann Aldrich on 9-7-07.(K,V) (Entered: 09/07/2007)
03/04/2008		Pursuant to General Order 2008-06, and in order to facilitate the efficient and timely administration of justice, Magistrate Judge Patricia A. Hemann (who retired effective February 29, 2008) is withdrawn and Magistrate Judge Gregory A. White is assigned. Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge White. (K,K) (Entered: 03/04/2008)
04/08/2008	<u>53</u>	<b>Notice of Withdrawal of Appearance for Paul J. Wilson</b> filed by Lincoln Electric Company. (Cipolla, John) (Entered: 04/08/2008)
06/17/2008	<u>54</u>	<b>Motion</b> for leave to <i>File Second Amended Complaint</i> filed by Plaintiff Lincoln Electric Company. (Attachments: # <u>1</u> Memorandum in Support of Motion for Leave to File Second Amended Complaint, # <u>2</u> Exhibit A, Second Amended Complaint, # <u>3</u> Exhibit A to Second Amended Complaint-US Patent # 6,002,103, # <u>4</u> Exhibit B to Second Amended Complaint-US Patent # 6,239,407, # <u>5</u> Exhibit C to Second Amended Complaint-US Patent # 6,849,827 B2, # <u>6</u> Exhibit D to Second Amended Complaint-US Patent # 7,049,546 B2, # <u>7</u> Exhibit E to Second Amended Complaint-US Patent # 6,329,636 B1, # <u>8</u> Exhibit F to Second Amended Complaint-US Patent # 6,815,639 B2, # <u>9</u> Exhibit G to Second Amended Complaint-US Patent # 6,987,242 B2, # <u>10</u> Exhibit H to Second Amended Complaint-US Patent # 6,236,014 B1, # <u>11</u> Exhibit I to Second Amended Complaint-Presentation of Publications and the Like (Japanese Patent Office))(Cipolla, John) (Entered: 06/17/2008)
06/20/2008	<u>55</u>	<b>Notice of Substitution of Counsel</b> removing attorney <i>Carrie M. Dunn</i> and adding attorney Natalia Steele filed by on behalf of all defendants. (Steele, Natalia) (Entered: 06/20/2008)
07/07/2008	<u>56</u>	<b>Response to 54 Motion</b> for leave to <i>File Second Amended Complaint</i> filed by all defendants. (Steele, Natalia) (Entered: 07/07/2008)
07/17/2008	<u>57</u>	<b>Reply</b> to response to <b>54 Motion</b> for leave to <i>File Second Amended Complaint</i> filed by Lincoln Electric Company. (Cipolla, John) (Entered: 07/17/2008)
08/15/2008	<u>58</u>	<b>Memorandum and Order</b> that the court grants Lincolns motion for leave to file a second amended complaint and stays any additional claims contained therein (Related Doc # <u>54</u> ). Judge Ann Aldrich on 8-15-08.(K,V) (Entered: 08/15/2008)
08/19/2008	<u>59</u>	<b>Second Amended complaint</b> against all defendants, filed by Lincoln Electric Company. (Attachments: # <u>1</u> Exhibit A, U.S. Patent No. 6,002,103, # <u>2</u> Exhibit B, U.S. Patent No. 6,239,407, # <u>3</u> Exhibit C, U.S. Patent No. 6,849,827 B2, # <u>4</u> Exhibit D, U.S. Patent No. 7,049,546 B2, # <u>5</u> Exhibit E, U.S. Patent No. 6,329,636 B1, # <u>6</u> Exhibit F, U.S. Patent No. 6,815,639 B2, # <u>7</u> Exhibit G, U.S. Patent No. 6,987,242 B2, # <u>8</u> Exhibit H, U.S. Patent No. 6,236,014 B1, # <u>9</u> Exhibit I, Presentation of Patents and the Like (Japanese Patent Office)) (Cipolla, John) (Entered: 08/19/2008)
08/07/2009	<u>60</u>	<b>Order</b> On December 13, 2006, Lincoln Electric Company ("Lincoln") filed a request for inter partes reexamination of seven of Illinois Tool Works Inc.'s ("ITW") patents with the United States Patent and Trademark Office (the PTO). On September 7, 2007, this court granted ITW's motion for a stay. This court directs the parties to immediately inform the court when the PTO reexamination is completed. Until that time, this case shall remain STAYED and administratively CLOSED, subject to reopening upon written motion by any of the parties. Signed by Judge Ann Aldrich on 8/7/09. (K,K) (Entered: 08/07/2009)
08/07/2009		(Court only) Judgment Index Record Added. Case administratively closed per <u>60</u> Order. (K,K) (Entered: 08/07/2009)
08/07/2009		(Court only) Utility event editing case flags. Termed flag added. (K,K) (Entered: 08/07/2009)